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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

SAMUEL NATHANIEL BEASLEY, IV,  
  
Petitioner,  
  
v.  
  
BRIAN WILLIAMS, et al.,  
  
Respondents.

Case No. 2:16-cv-01790-JCM-CWH  
  
ORDER

Petitioner Samuel Nathan Beasley IV's *pro se* habeas matter is before the court on Beasley's response to this court's show-cause order regarding whether the petition is untimely (ECF No. 21).

The Antiterrorism and Effective Death Penalty Act (AEDPA) imposes a one-year statute of limitations on the filing of federal habeas corpus petitions. 28 U.S.C. § 2244(d). The one-year time limitation can run from the date on which a petitioner's judgment became final by conclusion of direct review, or the expiration of the time for seeking direct review. 28 U.S.C. § 2244(d)(1)(A). Further, a properly filed petition for state postconviction relief can toll the period of limitations. 28 U.S.C. § 2244(d)(2).

Beasley dispatched his original federal petition for mailing on July 22, 2016 (see ECF No. 1-1). Beasley indicates on the face of his amended petition that his conviction was affirmed in 2006 and that he did not file a state postconviction petition (ECF No. 6,

1 p. 1). Beasley argues that he is entitled to equitable tolling of the one-year limitations  
2 period. See *Calderon v. United States District Court (Beeler)*, 128 F.3d 1283, 1288 (9th  
3 Cir. 1997), overruled in part on other grounds, *Calderon v. United States District Court*  
4 (*Kelly*), 163 F.3d 530 (9th Cir. 1998); *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005).  
5 He essentially argues that ground 1 in and of itself—that the state district court erred at  
6 Beasley’s sentencing when it relied on a presentencing report that contained an error—  
7 establishes an extraordinary circumstance. This argument is meritless. Moreover, this  
8 is a state-law question, and “federal habeas relief does not lie for errors of state law.”  
9 *Estelle v. McGuire*, 502 U.S. 62, 67 (1991) (internal quotations and citations omitted).  
10

11 This court observed earlier that ground 3—a claim that complains about the  
12 possible sentences under Nevada law for sexual assault without substantial bodily harm  
13 versus sexual assault with substantial bodily harm—is patently meritless and frivolous  
14 (see ECF No. 13). Beasley appears to have abandoned this ground; his response to  
15 the show-cause order is silent as to ground 3.  
16

17 Finally, as the court previously noted, ground 2 is a claim that the parole board  
18 has relied in part on the incorrect presentencing report when it denied him parole (ECF  
19 No. 6, p. 11-23). While the allegations in ground 2 may implicate Fourteenth  
20 Amendment due process, they do not sound in federal habeas corpus. 42 U.S.C. §  
21 1983; *Nettles v. Grounds*, 788 F.3d 992, 1001 (9th Cir. 2015) (“[R]elief is available to a  
22 prisoner under the federal habeas statute only if success on the claim would  
23 ‘necessarily spell speedier release’ from custody.”). Beasley’s argument that if the  
24 presentencing report were corrected it would indeed necessarily lead to his parole is  
25 unavailing.  
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1 Accordingly, Beasley has failed to demonstrate that this petition was timely filed  
2 or that he is entitled to equitable tolling of the time limitation. The petition is dismissed  
3 as time-barred.

4 **IT IS THEREFORE ORDERED** that the amended petition (ECF No. 6) is  
5 **DISMISSED** with prejudice as untimely.  
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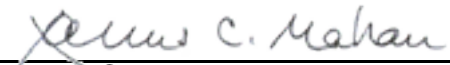
7 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel  
8 (ECF No. 7) is **DENIED** as moot.

9 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as  
10 jurists of reason would not find the court's dismissal of this action to be debatable or  
11 incorrect.

12 **IT IS FURTHER ORDERED** that the clerk shall send petitioner two copies each  
13 of an application form to proceed *in forma pauperis* for incarcerated persons and a civil  
14 rights complaint pursuant to 42 U.S.C. § 1983 form, one copy of the instructions for  
15 each form, and a copy of the papers that he submitted in this action.  
16

17 **IT IS FURTHER ORDERED** that the clerk shall enter judgment accordingly and  
18 close this case.

19  
20 DATED: September 26, 2017.

21   
22 JAMES C. MAHAN  
23 UNITED STATES DISTRICT JUDGE  
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